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<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number (Optional) 01480075AA
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature <b>HAND DELIVERED</b>		Application Number 09/901,621 Filed 7/11/01
Typed or printed name _____		First Named Inventor Tanaka, et al.
		Art Unit 3627 Examiner Laneau
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.		
This request is being filed with a notice of appeal.		
The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.		
I am the		 Signature
<input type="checkbox"/> applicant/inventor.		<u>Michael E. Whitham</u> Typed or printed name
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)		
<input checked="" type="checkbox"/> attorney or agent of record. <u>32,635</u> Registration number _____		<u>703/787-9400</u> Telephone number
<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		<u>Nov. 17, 2005'</u> Date
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.		
<input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.		

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of

Hisashi Tanaka Confirmation No. 7886  
Serial No. 09/901,621 Group Art Unit 3627  
Filed July 11, 2001 Examiner Ronald Laneau

# For COMMODITY SELLING SYSTEM FOR STORING AND DISPLAYING THE INFORMATION OF PURCHASE CANDIDATE COMMODITY

Mail Stop AF  
Commissioner for Patents  
PO Box 1450  
Alexandria, Virginia 22313-1450

ATTACHMENT TO PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

This Pre-Appeal Brief Request for Review is being concurrently filed in the USPTO with a Notice of Appeal. A check is attached to satisfy the fees for a Notice of Appeal. If any additional fees are required to satisfy the fees due for the Notice of Appeal or to gain entry and consideration of this Pre-Appeal Brief Request for Review, the Commissioner is authorized to charge Attorney's Deposit Account 50-2041 (Whitham, Curtis & Christofferson).

## The Invention

As discussed in more detail beginning on page 5 of the amendment filed June 22, 2005, the claimed commodity selling system stores information on each purchase candidate commodity selected from among commodities appearing on a web page. A list of purchase candidate commodities presented to a user may include information on each commodity at the time of selection as a purchase candidate commodity, such as: name; number; delivery date; customized specifications; and added options for each selected purchase candidate commodity. A list may also include the latest information on each selected commodity, such as: current inventory information on the purchase candidate commodity, information on changes in delivery date or price, information such as

update, or information on other new products associated with the commodity.  
(Specification, page 5, line 20 – page 6, line 6)

In the commodity selling system of the embodiment shown in Figure 2, a user is able to make a final determination as to which commodity to purchase on the basis of new information by including the latest information on the purchase candidate commodities on the purchase candidate commodity list (that is, when the user is going to purchase the product certain things may have changed since the time the purchase candidate was selected (e.g., price, current inventory, restrictions on delivery, etc)—and the user is presented with this other information which includes new information or changes related to a purchased candidate commodity that have occurred since said time of selection of said purchase candidate commodity). In addition, seller server 10 can display the purchase candidate commodity list on user terminal 30 at any time the user requests such display.

### **Errors and Omissions**

Each of the independent claims requires

- storing a time of selection of a purchase candidate commodity
- storing information related to a plurality of purchase candidate commodities, said information being selected from current price, delivery date, customized specifications, and accessories to be included with a purchase
- storing other information which includes new information or changes related to a purchases candidate commodity THAT HAVE OCCURRED SINCE SAID TIME OF SELECTION of said purchase candidate commodity
- displaying the information, and if there is any other information, also displaying the other information on a terminal in response to a request from the user terminal

Thus, the claimed invention provides a system, software and methods for a purchaser of commodities to make purchase candidate selections, and then to be able to determine changes in information related to those purchase candidate selections over time. For example, the price of a purchase candidate commodity

may go up or down, the availability of a purchase candidate commodity may go up or down, restrictions on delivery for a purchase candidate commodity may change, etc.

U.S. Patent Publication 2002/0029171 to Senior wholly lacks any teaching describing or suggesting being able to select a purchase candidate commodity at one time, and then being able to track changes in information related to this purchase candidate commodity that may have occurred with time. As such, none of the claims are obvious over the Senior reference.

Senior is related to a purchasing system which allows a user to “pre-purchase quantities of goods or services for later redemption” (see abstract). Senior allows users to “redeem all or a part of their balance for real product at a retail location over time” (see abstract). As characterized by Senior, “The transaction is carried out in quantity units, so the user is able to circumvent the market price in effect at the time of redemption” (see abstract). In short, Senior allows a user to pre-purchase a certain quantity of goods or service for a certain price. Once pre-purchased, the user can then control when he redeems the quantity of goods or services, and the increments in which those goods or services are redeemed. In Senior, it does not matter what happens to the price of a good after the time when it is pre-purchased. By pre-purchasing, the user acquires a right to a certain quantity of goods or services. If the price goes up after the user has pre-purchased, the user has benefitted (the user can either redeem his quantities or trade the right to redeem to another party). If the price goes down after the user has pre-purchased, the user has not benefitted.

With reference to Figure 3, it can be seen that Senior provides a system where a purchase is made once a commodity, brand and quantity are chosen (see “PAYMENT” column in center. The only discussion of “time” in Senior pertains to a “Transaction History”. With reference to Figure 3 of Senior, it can be seen that the purchases can be sorted by date. Figure 11 also provides a “History” of purchases. However, nowhere in Senior is there described a system where the seller server stores a “time of selection of a purchase candidate quantity” without making a purchase. Further, nowhere in Senior is there described a system where the information at the time of selection can be determined and compared with “other information which includes new information or changes related to a

purchase candidate commodity THAT HAVE OCCURRED SINCE SAID TIME  
OF SELECTION of said purchase candidate commodity”.

### Conclusion

In view of the above, it is requested that the position of the Examiner be reviewed, that the rejections be withdrawn, and that the application be awarded a notice of allowance.

Respectfully submitted,



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